

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of	)	
	)	
Washington Utilities and Transportation	)	CC Docket No. 96-98
Commission's Petition for Delegation of	)	NSD File No. L-99-102
Additional Authority to Implement Number	)	DA 00-155
Conservation Measures	)	

**COMMENTS OF AT&T CORP.**

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, AT&T Corp.

("AT&T") hereby submits its comments on the Washington Utilities and Transportation Commission's ("WUTC") December 10, 1999 petition for additional authority to implement number conservation measures ("Petition").

Nearly half of the nation's state commissions have now filed petitions<sup>1</sup> seeking a broad delegation of power over number administration pursuant to the Commission's Pennsylvania Order.<sup>2</sup> On September 15, 1999, the Commission granted in part waiver requests by the state commissions for California, Florida, Massachusetts and New York that sought authority that was

<sup>1</sup> As of the date of the instant pleading, at least twenty-four state commissions have filed petitions seeking delegated authority over number administration. In addition to the WUTC petition, petitions have been filed by state commissions from Arizona, California, Colorado, Connecticut, Florida, Georgia, Indiana, Iowa, Kentucky, Maine, Massachusetts, Missouri, Nebraska, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Utah, Virginia, and Wisconsin.

<sup>2</sup> In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009 (1998) ("Pennsylvania Order").

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substantively identical in large measure to that the WUTC seeks here. Two weeks later, the Commission granted the Maine commission -- which sought relief from the alleged burdens of NPA proliferation in a state that has only one area code -- authority essentially identical to that granted in the September 15<sup>th</sup> waivers. On November 30, 1999, the Commission granted five additional state waiver requests, authorizing the state commissions for Connecticut, New Hampshire, Ohio, Texas, and Wisconsin to implement some or all of the same conservation measures permitted by the four original waivers.

Because the many state commission numbering petitions filed to date largely seek the same relief and raise substantively identical claims, AT&T will not burden the record by repeating the arguments it has offered in response to those previous waiver requests, but instead hereby incorporates into these comments by reference its prior pleadings concerning each of the state petitions. In addition, AT&T hereby incorporates into this pleading by reference its pleadings addressing the Commission's Numbering Resource Optimization NPRM ("NRO NPRM").<sup>3</sup>

The WUTC's petition implicates three critical issues that the Commission has not previously addressed in the context of state commission petitions for numbering authority. First, as AT&T described in its recent comments on the Nebraska and Iowa commissions' petition for authority over numbering, U S West, Washington's incumbent BOC, has instituted a policy that requires local number portability-capable carriers to use a separate location routing number ("LRN") for every rate center from which they wish to receive ported numbers, and to obtain

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<sup>3</sup> Numbering Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200, released June 2, 1999 ("NRO NPRM").

each LRN from a unique NXX assigned to that carrier.<sup>4</sup> As AT&T explained in its reply comments on the NRO NPRM, this policy effectively makes number pooling impossible, because it requires each CLEC to obtain a full NXX in each rate center it wishes to serve.<sup>5</sup> Ironically, U S West supported number pooling in its comments on the NRO NPRM, despite its LRN per rate center policy. As AT&T also showed in the NRO NPRM, U S West's policy is directly contrary to industry guidelines as well.<sup>6</sup> Indeed, the industry's position on this issue is so clear that, to the best of AT&T's knowledge, U S West is the only ILEC seeking to require the use of an LRN per rate center.

Thus, to the extent that any state commission wishes to establish thousands block number pooling in U S West's territory or that the Commission seeks to do so in the NRO docket, U S West must be required to abandon its misguided and anticompetitive LRN per rate center policy. Moreover, even in the absence of pooling, U S West's policy forces other carriers to

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<sup>4</sup> U S West recently indicated that it intends to modify its LRN per rate center policy in some respects; however, the precise nature and extent of those modifications is not yet clear, and accordingly it remains imperative that the Commission confirm that U S West may not require competing carriers to employ an LRN per rate center.

<sup>5</sup> Reply Comments of AT&T Corp., p. 30 & Appendix B, filed August 30, 1999 in the NRO NPRM. U S West's LRN requirement also could negate wireless carriers' ability, once they become LNP-capable, to utilize numbers efficiently. Although wireless providers do not currently need an NXX for every rate center in which they provide service, application of U S West's requirement would force them to obtain codes in every rate center they serve, needlessly promoting number exhaust. In addition, it is currently possible -- in every ILEC's territory other than U S West's -- for wireline carriers to share a single NXX across multiple switches in a single rate center. U S West's policy, however, will require carriers to obtain an NXX per switch in such cases, again requiring inefficient use of numbering resources.

<sup>6</sup> Significantly, not only is U S West itself violating industry guidelines, its policy also forces every other LNP-capable carrier that wishes to compete in its territory to violate those guidelines.

waste numbering resources, and to incur unjustified expenses in order to modify their operations in a manner that renders them noncompliant with industry guidelines. Accordingly, AT&T requests that the Commission clarify as part of any decision that it issues in the instant proceeding that U S West may not require other carriers to utilize an LRN per rate center. The Nebraska Public Service Commission also requested in its reply comments concerning its recent waiver request that the Commission take action against U S West's LRN per rate center policy.<sup>7</sup>

Second, the WUTC seeks authority to implement unassigned number porting ("UNP").<sup>8</sup> The Commission unequivocally concluded in its prior numbering waiver orders that UNP is "currently at too early a stage of development to order implementation," although carriers may engage in UNP on a voluntary basis.<sup>9</sup> The Petition offers no evidence that suggests the Commission should revisit this conclusion.<sup>10</sup>

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<sup>7</sup> See Nebraska PSC, Reply Comments, filed December 17, 1999, pp. 1-2 in Nebraska Public Service Commission Petition Delegation of Additional Authority To Implement Number Conservation Measures, NSD File No. L-99-83.

<sup>8</sup> See Petition, p. 12.

<sup>9</sup> E.g., Order, New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-21, released September 15, 1999, ¶ 37; Order, Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781 and 978 Area Codes, CC Docket No. 96-98, NSD File No. L-99-19, released September 15, 1999, ¶ 43 ("Massachusetts Waiver Order").

<sup>10</sup> Although the WUTC styles its Petition as a request to require "interim" UNP, it offers no grounds to treat such a measure any differently than the UNP proposals the Commission has already rejected. Indeed, any UNP program implemented pursuant to a Commission waiver presumably would be "interim" in nature, as prior waiver orders expressly have provided that state actions taken pursuant to those grants must be conformed to any subsequent federal requirements.

Third, in addition to seeking authority to establish fill rate requirements for carriers' requests for growth codes (a power the Commission has granted in prior orders), the WUTC seeks the power to "[e]stablish criteria for acquisition of codes based on a carrier's needs."<sup>11</sup> To the extent this open-ended request would permit the WUTC to establish requirements for a carrier's acquisition of an initial code in a rate center, it exceeds the authority granted in any of the Commission's prior waiver orders and should be rejected. The Petition does not state what it would deem to be appropriate "criteria" that a carrier must meet in order to be permitted to establish a service footprint, nor how it would evaluate whether a carrier met those requirements. Granting such authority would place the WUTC in the untenable position of deciding whether a LEC would be permitted to compete in certain areas of Washington, based upon the WUTC's assessment of whether the carrier could attract a sufficient number of customers. Nothing in the Commission's prior orders or in the 1996 Act permits regulators to dictate the pace of local competition's development in such a manner.

The state numbering petitions granted to date strongly suggest that the Commission is prepared to grant to any state that requests it authority that, by the Commission's own admission, "goes beyond the parameters outlined in the [Pennsylvania Order]."<sup>12</sup> For example, the Commission based its grant of additional authority to the Maine commission on the fact that the 207 NPA was nearing exhaust "despite the existence of a high number of unused numbers in this

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<sup>11</sup> Petition, p. 12.

<sup>12</sup> E.g., Massachusetts Waiver Order, ¶ 6.

code."<sup>13</sup> The Commission has long recognized, however, that because the current numbering system requires the assignment of numbers in blocks of 10,000, and requires wireline carriers to obtain an NXX code in every rate center they wish to serve (there are over 220 rate centers in Maine's single area code), CLECs will almost inevitably have a relatively large proportion of "unused numbers" when they enter the market.<sup>14</sup>

The rationale underlying the waiver granted to the Maine commission thus potentially applies with equal force to virtually every NPA. Moreover, because no state numbering petition filed to date provides information as to how the petitioning state commission proposes to implement programs such as number pooling or number reclamation, the potential for widely varying standards -- or even outright conflicts among the states -- is high.<sup>15</sup> In effect, the Commission appears to have modified its longstanding numbering rules and policies without adequate prior notice, and without offering an adequate explanation for abandoning its previous conclusion that permitting state commissions to proceed with numbering administration

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<sup>13</sup> Order, Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-27, ¶ 5, released September 28, 1999.

<sup>14</sup> See, e.g., NRO NPRM, ¶ 20.

<sup>15</sup> For example, while the Commission's state numbering waiver orders urge state commissions to adhere to "industry adopted thousands-block pooling guidelines," it permits them to modify those guidelines after "consult[ing] with the industry." E.g., Order, Petition of the California Public Utilities Commission for Delegation of Additional Authority, CC Docket No. 96-98, NSD File No. L-98-136, ¶ 14, released September 15, 1999 ("California Waiver Order"). Other aspects of the numbering waivers granted to date are similarly unclear as to precisely what constraints the Commission imposed on state commissions' discretion to adopt state-specific numbering requirements.

measures "on a piecemeal basis" could "jeopardiz[e] telecommunications services throughout the country."<sup>16</sup>

AT&T already has begun to work with the state commissions that have obtained numbering waivers, and intends to continue to cooperate fully in their efforts to implement thousands block pooling and the other measures the Commission recently authorized. AT&T also intends to participate in similar efforts by other state commissions that may obtain grants of numbering authority. Nevertheless, AT&T continues to urge the Commission to move forward promptly with the adoption of national conservation standards, and to limit the number of states to which it grants numbering waivers. As the state commissions' *seriatim* requests for delegated authority make clear, the circumstances prompting the instant petition are not unique to any one state, or even to a small group of states, but are national issues for which national solutions are essential. If the Commission were to grant authority over number conservation to each state that has requested (or that is likely to request) that power, the integrity of the NANP could be threatened by a myriad of competing and conflicting standards, and the timeline for implementing national number optimization policies would be significantly lengthened because carriers would be forced to devote their limited resources to developing and implementing multiple state trials.<sup>17</sup>

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<sup>16</sup> Pennsylvania Order at 19022 ¶ 21. As AT&T has stated previously, it does not contend that state commissions are incapable of crafting workable numbering policies, but rather that the decisions of dozens of autonomous regulatory bodies will inevitably diverge from -- and even directly conflict with -- one another.

<sup>17</sup> Although the numbering waivers granted to date express the Commission's willingness to ensure that state commissions adhere to the "competitive neutrality" requirement and other provisions of its rules, the reality is that carriers seeking to compete in rapidly

(footnote continued on next page)

Finally, it is imperative that the Commission make clear in any order delegating authority over numbering that a state may not refuse to implement needed NPA relief while it undergoes preparations for number conservation measures that it hopes may eventually permit it to extend the life of NPAs. Despite the Commission's explicit warning that the numbering waivers it has granted to date "are not intended to allow [state commissions] to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief,"<sup>18</sup> some states already have suggested that they intend to utilize rationing to artificially extend the life of existing NPAs while they prepare for pooling or other measures. Indeed, the instant Petition appears to request for authority to do precisely that.<sup>19</sup> Although the Commission's prior waiver decisions admonished that "[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources,"<sup>20</sup> there is a real and present danger that that situation will occur.<sup>21</sup>

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(footnote continued from previous page)

changing telecommunications markets can ill afford the delay and uncertainty that inevitably result from disputes over varying state-created numbering policies.

<sup>18</sup> E.g., California Waiver Order, ¶ 9.

<sup>19</sup> See Petition, pp. 12-13 (seeking authority to revise rationing procedures without industry consensus if "number conservation measures are projected to be successful if given a few additional months to be fully implemented").

<sup>20</sup> E.g., California Waiver Order, ¶ 9.

<sup>21</sup> See generally, e.g., Letter from Tina S. Pyle, MediaOne Group, Inc., to Yog R. Varma, Deputy Bureau Chief, Common Carrier Bureau, Federal Communications Commission (September 29, 1999) (documenting MediaOne's inability to obtain numbering resources necessary to provide residential wireline telephone service to "over 290,000 additional households").

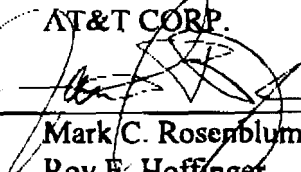


In any subsequent numbering waiver that it may grant, the Commission should clarify that it does not -- and did not previously -- intend to permit state commissions to deny numbering resources to carriers during any interim period while a state prepares to implement optimization measures.

### CONCLUSION

AT&T urges the Commission to establish national conservation standards as expeditiously as possible to provide necessary relief to all states, carriers, and consumers on an equitable basis; and to act on the instant petition in a manner consistent with AT&T's comments and reply comments concerning prior state commission numbering waiver requests and the NRO NPRM.

Respectfully submitted,

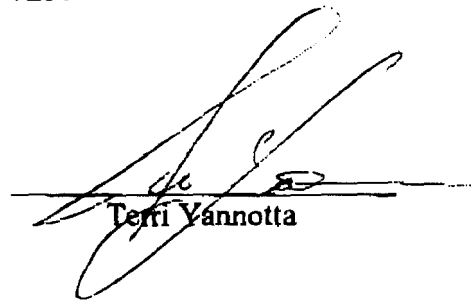
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February 28, 2000

**CERTIFICATE OF SERVICE**

I, Terri Yannotta, do hereby certify that on this 28<sup>th</sup> day of February, 2000, a copy of the foregoing "Comments of AT&T Corp." was served by U.S. first-class mail, postage prepaid to the party listed below:

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February 28, 2000